

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

JAMES ERIC LOFTEN

§

VS.

§

CIVIL ACTION NO. 1:15cv151

STATE OF TEXAS, ET AL.

§

ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff James Eric Loften, an inmate at the Eastham Unit in Lovelady, Texas, proceeding *pro se*, brought the above-styled lawsuit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed as barred by 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

This action was filed after being severed from one of plaintiff's pending cases where plaintiff attempted to assert civil rights claims in a petition for writ of habeas corpus. However, plaintiff is barred from proceeding *in forma pauperis* pursuant to 28 U.S.C. § 1915(g) based on multiple previous cases being dismissed as frivolous and for failing to state a claim upon which relief may be granted. While plaintiff contends he did not file this action, the action resulted from his attempt to circumvent the limitations imposed under § 1915(g) by filing his claims in a habeas petition.

After careful consideration, the court concludes plaintiff's objections are without merit. For the reasons set forth in the Report, plaintiff's complaint is barred by 28 U.S.C. § 1915(g).

O R D E R

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So **ORDERED** and **SIGNED** this **24** day of **August, 2017**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge